

UNITED STATES DISTRICT COURT
Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 29, 2020

UNITED STATES OF AMERICA
v.
FREEDOM FUEL INC

JUDGMENT IN A CRIMINAL CASE SEAN F. MCAVOY, CLERK
(For Organizational Defendants)

Case Number: 4:17-CR-06020-SMJ-5

James A. Perkins

Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

- ☒ pleaded guilty to count Two of the Indictment
- ☐ pleaded nolo contendere to count(s) which was accepted by the court.
- ☐ was found guilty on count(s) after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. 286 CONSPIRACY TO DEFRAUD THE GOVERNMENT - FALSE CLAIMS		04/30/2013	2

The defendant organization is sentenced as provided in pages 2 through 5 of this judgment.

- ☐ The defendant organization has been found not guilty on count(s)
- ☒ Count All remaining counts ☐ is ☒ are dismissed on the motion of the United States

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

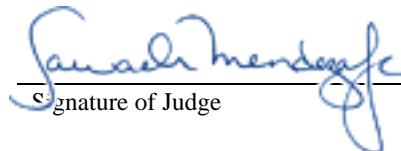
Defendant Organization's
Federal Employer I.D. No. 80-0908848

01/23/2020

Date of Imposition of Judgment

Defendant Organization's Principal Business Address:

1925 South Broadway Avenue
Othello, WA 99344


Signature of Judge

Defendant Organization's Mailing Address:

1925 South Broadway Avenue
Othello, WA 99344

The Honorable Salvador Mendoza, Jr. Judge, U.S. District Court

Name and Title of Judge

1/29/2020

Date

DEFENDANT ORGANIZATION: FREEDOM FUEL INC
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PROBATION

The defendant organization is hereby sentenced to probation for a term of: 3 years as to Count 2.

The defendant organization shall not commit another federal, state or local crime

- ☒ If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see Overview of Probation and Supervised Release Conditions, available at: www.uscourts.gov.

Defendant's Signature

Date

DEFENDANT ORGANIZATION: FREEDOM FUEL INC

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SPECIAL CONDITIONS OF SUPERVISION

1. The defendant organization must provide the supervising officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office. You must disclose all assets and liabilities to the supervising officer. You must not transfer, sell, give away, or otherwise convey any asset with a value exceeding \$500, without the advance approval of the supervising officer.
2. The defendant organization must surrender or make available for review, any documents and/or business records, requested by the supervising officer.
3. The defendant organization must not incur any new debt, open additional lines of credit, or enter into any financial contracts, without the advance approval of the supervising officer. If defendant is current with payment plan, no advance approval is required.
4. The defendant organization shall submit to search, conducted by a probation officer, at a sensible time and manner, based upon reasonable suspicion of contraband or evidence of violation of a condition of supervision. Failure to submit to search may be grounds for revocation. You must warn employees that the organization and any buildings and vehicles under the control of the organization may be subject to search.
5. Within 120 days of sentencing, the defendant organization shall provide written notice to all employees of the charge of conviction, the term of supervision, the conditions of supervision, and the name and contact information of the supervising probation officer. This notice is to be signed by each employee and retained in that employee's personnel file with a copy given to the employee and to the supervising probation office. All future employees shall receive the same notification at the time of hiring. This written notice shall be developed o cooperation with the supervising probation officer.
6. Within 10 days of the end of each quarterly reporting period (April 30, July 31, October 31, and January 31), the defendant organization shall provide the supervising officer a list of employees who worked for the organization during that quarterly reporting period.
7. If the defendant organization is audited by any governmental agency or contacted by any governmental law enforcement or regulatory agency, this contact shall be reported to the supervising probation officer within 5 business days.

DEFENDANT ORGANIZATION: FREEDOM FUEL INC
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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$400.00	**\$100,000.00	\$284,546.00

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☒ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
IRS - RACS	\$284,546.00	\$284,546.00	To be paid in full

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☒ The court determined that the defendant organization does not have the ability to pay interest and it is ordered that:
- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> the interest requirement is waived for the | <input checked="" type="checkbox"/> fine | <input checked="" type="checkbox"/> restitution |
| <input type="checkbox"/> the interest requirement for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT ORGANIZATION: FREEDOM FUEL INC

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SCHEDULE OF PAYMENTS

Having assessed the defendant organization's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A** ☐ Lump sum payments of \$ _____ due immediately, balance due
☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D below; or
- B** ☒ Payment to begin immediately (may be combined with ☐ C, ☒ D below); or
- C** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☒ Special instructions regarding the payment of criminal monetary penalties:

While on probation, monetary penalties are payable on a monthly basis of not less than \$25.00 per month or 10% of the defendant's net income, whichever is less, commencing 30 days after entry of this Judgment.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the following address until monetary penalties are paid in full: Clerk, U.S. District Court, Attention: Finance, P.O. Box 1493, Spokane, WA 99210-1493.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

Freedom Fuel Inc.	4:17CR06020-SMJ-5	\$284,546.00	\$284,546.00	IRS-RACS
Hector M. Garza, Jr.	4:17CR06020-SMJ-1	\$284,546.00	\$284,546.00	IRS-RACS
Tammy L. Garza	4:17CR06020-SMJ-2	\$284,546.00	\$284,546.00	IRS-RACS
HTG Trucking LLC	4:17CR06020-SMJ-3	\$284,546.00	\$284,546.00	IRS-RACS
Scott Carl Johnson	4:15CR06042-SMJ-1	\$284,546.00	\$284,546.00	IRS-RACS
Donald Holmes	4:15CR06044-SMJ-1	\$284,546.00	\$284,546.00	IRS-RACS

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

****With respect to the \$100,000.00 Fine:** It is to be paid joint and several with H. Garza, EDWA Cause No. 4:17-CR-06020-SMJ-01; T. Garza, EDWA Cause No. 4:17-CR-06020-SMJ-02; and HTG Trucking, LLC, EDWA Cause No. 4:17-CR-06020-SMJ-03.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.